

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

HARVARD REAL ESTATE-ALLSTON, )  
INC., )  
Plaintiff, )  
v. ) Civil Action No. 04-CV-12249-DPW  
KMART CORPORATION, )  
INC., )  
Defendant )  
\_\_\_\_\_  
)

**STIPULATION RE : KMART EXTENSION FOR FILING  
RESPONSES TO HARVARD'S MOTION TO REMAND AND  
MOTION TO DISMISS COUNTERCLAIMS**

The Plaintiff, Harvard Real Estate-Allston, Inc. ("Harvard"), and the Defendant, Kmart Corporation, Kmart Store 9424 ("Kmart"), by their attorneys, hereby stipulate and agree to the following:

1. Kmart shall have until and including December 16, 2004 to file a Response to Harvard's Motion to Remand and a Response to Harvard's Motion to Dismiss Counterclaims;
2. Kmart shall assent to Harvard's Motion for Leave to File Reply Brief to Kmart's Response to Harvard's Motion to Remand and Kmart's Response to Harvard's Motion to Dismiss Counterclaims;

3. If the Court allows Harvard's Motion for Leave to File Reply Brief to Kmart's Responses pursuant to Paragraph 2, Harvard will assent to Kmart's Motion for Leave to File Surreply to Harvard's Reply Brief.

Respectfully submitted,

HARVARD REAL ESTATE ALLSTON-INC.  
By its attorneys,

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Respectfully submitted,

KMART CORPORATION,  
By its attorneys,

/s/ William R. Moorman, Jr.  
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Dated: December 15, 2004